



December 8, 2021

Via Electronic Filing

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RE: WC Docket No. 21-450 – Comments of the California Emerging Technology Fund
on Transition from Emergency Broadband Benefit to the Affordable Connectivity
Program

Dear Secretary Dortch:

In accordance with Section 1.419 of the Commission’s Rules, the California Emerging Technology Fund (“CETF”) hereby files comments on the Wireline Competition Bureau’s Notice seeking comment on the transition from the Emergency Broadband Benefit (“EBB”) program to the Affordable Connectivity Program (“ACP”), released on November 18, 2021 (“Notice”). The Notice seeks to provide a smooth transition from the current EBB program to the newly approved ACP program.

CETF applauds Congress and President Biden for their unprecedented support for continuing affordable broadband plans which will assist low-income and disadvantaged consumers who are on the wrong side of the Digital Divide. All eyes are now on the FCC to swiftly implement the new ACP program while providing a smooth transition from the EBB program to its current subscribers. CETF understands this is like building a new airplane while still flying the old one. CETF overall supports most proposals in the Notice, however, it notes some areas where the rules could be improved, given

our practical experience working with the EBB program in California and fifteen years working in Digital Divide programs in our state.

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II. Summary of Key Recommendations

- CETF congratulates the FCC for establishing the “auto enrollment” function for EBB for those applicants qualifying with one of several federal programs: SNAP, Medicaid and federal Lifeline. Auto enrollment has worked well to facilitate enrollment and should continue for ACP enrollment. CETF further recommends “auto enrollment” of significant populations of eligible households by trusted public institutions. As examples, entities such as school districts should be allowed to auto-enroll their students enrolled in the National School Lunch Program, based on their supporting data on the eligibility of these students. CETF is aware of the fraudulent use of the CEP requirements by rogue agents of a handful of providers. The FCC should not overreact and adopt overly strict measures that make it more difficult for school districts, schools, and parents. Other entities that should have auto enrollment include Counties and Health Plans for Medi-Cal (Medicaid), and higher education educational institutions for holders of current Pell Grants.
- EBB and ACP rules should explicitly include homeless centers as eligible for support under the multiple dwelling unit provisions. Minor rule changes on family eligibility may be required to account for the transient nature of homeless center residents, but this is of great importance for unhoused children who need the Internet to perform school work and homework.
- EBB and ACP rules should expand the definition and eligibility of multiple dwelling units to include multi-family serving organizations that purchase in bulk, specifically for schools and libraries currently providing Internet services under the ECF program. Schools and libraries should have access to ACP funding to serve eligible families, following the phase out of the ECF program funding.

- CETF strongly supports requirements that participating providers must actively advertise and promote both the EBB/ACP program and the connected device benefit. When advertising, ISPs should be encouraged to fund outreach by trusted community-based organizations in targeted low-income and disadvantaged communities. In California, only one major provider offered connected devices, Cox Communications, and several smaller providers/resellers like human-i-t. CETF encourages the FCC to improve incentives for providers to offer connected devices to eligible households.
- CETF recommends required training of a participating provider's customer service representatives (CSRs) in the ACP programs, with dedicated CSRs and a dedicated call-in telephone number for the ACP program.
- CETF supports the implementation of the Act's provisions to ensure there is no inappropriate "upselling" or "downselling" of service offerings to EBB or ACP consumers.
- CETF recommends that the FCC ensure the ultimate rates charged by participating providers to eligible households are "affordable." Additional monthly fees for modems or routers, or for one time installation services or truck rolls for technical support should be disallowed. Based on focus groups and our long experience working on digital adoption programs since 2006, CETF recommends a fee of \$10/month to \$20/month to be "affordable" for broadband service.¹ For some consumers in extreme poverty, an "affordable" broadband plan may need to be a free monthly service. This may be appropriate for eligible consumers that receive federal housing assistance or Section 8 housing. Depending on the cost of the regular retail broadband plan chosen given the needs of the household, the new ACP benefit helps bring the cost down, but it

¹ CETF urges the FCC to study the issue of affordability like the California PUC did in a recent proceeding, R. 18-07-006, and encourage every ISP to adopt a permanent affordable broadband program.

may not be at a level that is truly affordable for a low-income household because it is keyed off the Internet Service Provider's ("provider" or "ISP") retail plans.

- CETF urges the Commission to ensure that discounted computing devices meeting the EBB/ACP criteria are made available to eligible consumers, either from the providers, a reliable third party such as human-i-t, the school districts, refurbishing companies, or a combination of options.
- CETF recommends that eligibility should be standard across all participating providers and the standard should be the statutory ACP eligibility standards. Otherwise, the Digital Divide will remain a chasm. Several large providers, such as Charter Communications, limit its program eligibility to households enrolled in the CEP portion of the NSLP or SSI (primarily people with disabilities without other income). In California, two-thirds of the households eligible for EBB have no children. By limiting the program as the participating provider wishes, it greatly limits the number of households that could be taking advantage of ACP.
- CETF urges that the FCC's regulations not be overly burdensome on participating providers or on consumers, in order to encourage both to participate, while ensuring there is no waste, fraud or abuse. For small providers, it is advantageous to have them participate but overly burdensome regulations, data tracking, and record retention may discourage participation.

IV. Background

Established in 2006, CETF is a non-profit organization dedicated to its mission of closing the Digital Divide in California. CETF was directed to be established by the California Public Utilities Commission ("CPUC") as a public benefit resulting from mergers in 2005 of AT&T / SBC Communications and Verizon Communications/MCI. CETF routinely provides recommendations to

the CPUC and this Commission on issues relating to broadband, affordable broadband offers, and corporate consolidations involving Internet Service Providers (“providers”). As to the latter, CETF recommends that providers provide public benefits to their consumers relating to improved broadband infrastructure, affordable broadband offers and other Digital Inclusion strategies. CETF is the only non-state agency member of the California Broadband Council,² due to its unique role in promoting broadband and its deep broadband infrastructure and adoption expertise in the state. CETF has worked tirelessly on rural, remote, and Tribal infrastructure issues, and to bring broadband adoption programs to communities who need it.³ California has the highest population of all the states along with higher unemployment and poverty rates than most states. California focused early in 2006 on Digital Divide issues, but there still remains much to be done in terms of broadband infrastructure improvement to all areas, and broadband adoption and digital literacy among low-income and disadvantaged communities. The EBB program and now the successor ACP program provides a ray of hope because it will provide an essential service – broadband -- to low-income households in our state, whether it is because the occupants have a low-income, disadvantage, a disability, are of advanced age, or are unemployed or displaced due to a natural disaster such as wildfires or floods. The COVID-19 pandemic has laid bare the stark reality that broadband has become an essential service like electricity and water. Those on the wrong side of the Digital Divide are deeply disadvantaged without broadband access. As a result, CETF is heartened by Congress providing the ACP program to Americans and provides these comments in the spirit to improve it.

² The California Broadband Council was established by Senate Bill 1462 to promote broadband deployment in unserved and underserved areas of the state as defined by the CPUC, and broadband adoption throughout the state.

³ Please see the CETF website for details of its comprehensive Digital Divide work:
<https://www.cetfund.org/>

IV. CETF Comments

A. Participating Providers

Providers Eligible to Participate

In the interests of streamlining regulatory processes, CETF supports the proposal to retain the current definition of “participating provider” and application requirements, given the Infrastructure Act did not change the definition. CETF supports the proposal in para. 9 of the Notice to allow all existing EBB program providers to participate in the ACP by just submitting an ACP election notice to USAC, instead of submitting a new application. Only new providers should be required to submit a new application to participate in ACP.

In order to streamline ACP eligibility, CETF supports the proposal in para. 10 of the Notice that the Commission retain the process to review and approve so-called “automatic applications” -- where a provider’s application is reviewed on a priority basis if it had a preexisting program as of April 1, 2020, that offered discounted services for certain eligible households -- for non-ETC providers. However, CETF suggests that the date of April 1, 2020, was more appropriate to the EBB situation, which was tied to the COVID-19 pandemic, and that the date should be shifted later to the date the Infrastructure Act was signed by President Biden (November 15, 2021). The goal should be having the most providers participate in the ACP program with a robust set of plan offerings, not to limit participation or overly limit eligible plans.

As to what is an “established program” as discussed in para. 11 of the Notice, the proposal to have a provider submit information showing it maintains an existing low-income program that was made available by April 1, 2020 to subscribers meeting at least one of the criteria in the revised definition of

an eligible household is acceptable, but again CETF challenges the usefulness of the April 1, 2020 date in the ACP program and would shift it to November, 15, 2021, the signing date of the Infrastructure Act.⁴ CETF agrees it is sufficient to have the provider demonstrate that it offers broadband subscribers discounted rates based on criteria such as low-income, participation in federal/state/local assistance programs, or other means-tested eligibility criteria, and must show the pre-existing verification process used for this existing program. We think eligibility should be standard across all providers and the standard should mirror the ACP requirements. Otherwise, the Digital Divide will remain a chasm. Several large providers such as Charter Communications, limit eligibility to households enrolled in the CEP portion of the NSLP or SSI (primarily people with disabilities without other income.) In California two-thirds of the households eligible for EBB have no children.

CETF supports the Notice's proposals in para. 12 that the Bureau be delegated the authority to review the service provider applications, that only new providers need seek FCC approval, and that the applications be reviewed on a rolling basis. CETF recommends providers that have been approved for the ACP program be posted publicly on an FCC webpage for transparency to the public and notification of the approval to the applicant provider. The FCC must require participating providers to only list the ZIP codes to be served at the time of approval or certification, and to provide a window for an annual update on areas actually served. It is CETF's experience that the ZIP codes listed in California are aspirational by the providers and in practice, unhelpful to the consumer.

As to para. 13 of the Notice, a simple notice of any ownership changes of providers to the FCC should be adequate; no burdensome approval process should be imposed. A simple notice to the FCC of the

⁴ Infrastructure Investment and Jobs Act, H.R. 3684, 117th Cong. (2021) (hereinafter cited as the "Infrastructure Act").

desire to relinquish participation in the ACP program also should be adequate, with no pre approval or approval process required. CETF does not see any rationale to impose a burdensome approval process in either situation.

Election Notices

As to election notices discussed in para. 14 of the Notice, CETF recommends that only carriers who need to indicate changes in their prior EBB notices be required to file new election notices with USAC with the changes indicated (example, states in which they plan to offer ACP, ETC status, whether connected devices will be offered, description of the services offerings for which ACP reimbursement is going to be sought, and the standard rates of such offerings). Otherwise, if there are no changes to the prior EBB election notice, a simple ACP election notice should be allowed to be filed with USAC by continuing providers to affirm they understand the new ACP rules and agree to them.

As to para. 15 of the Notice, CETF recommends that providers be required to demonstrate that any Internet service offering for which they will apply for ACP reimbursement was offered to the public at the general time frame (within 3 months) on the date of the signing of the Infrastructure Act or prior to the launch of the ACP. CETF welcomes the Infrastructure Act's less stringent requirements on the Internet service plans to which the ACP benefit may be applied. Disposing of the requirement that the plan was offered before December 1, 2020, requirement makes sense for an ongoing program.

Relating to offered service plans, CETF has serious concerns about service offerings where a discounted rate depends on a commitment to a particular contract time period, or a rate where the low rate is a "promotional offer" that then escalates after the initial term passes. CETF recommends that the eligible Internet service offerings do not have any mandatory contract (written or verbal) time period, installation fees, recurring modem charges, fees for truck rolls, or mandatory credit checks.

These have all been demonstrated to be significant barriers for low-income and disadvantaged persons to obtain Internet service, in CETF's work on affordable broadband plans in low-income and disadvantaged communities. Finally, overly stringent data caps should not be allowed, such that the household will get an unexpected charge for additional data on its bill.

CETF expresses concerns about the "affordability" of the amount the subscriber will pay after the ACP discount is applied to the retail broadband plan. Based on CETF's statewide surveys, focus group feedback and CETF's sustained experience in the field working with low-income and disadvantaged communities since 2006, it is CETF's strong recommendation that to be "affordable," the amount that a households should pay after the ACP benefit is applied should be between \$10/month to \$20/month.⁵ CETF acknowledges that affordability can vary by geographic areas, but overall, this range of rates has proven to be affordable for subscribers in California, a state of great diversity.

As to the geographic area to be used as a reference for comparable rates discussed in para. 15 of the Notice, it should be the closest metropolitan or micropolitan area, as delineated by the Office of Management Bureau ("OMB"). This area should be appropriate to be a reference for comparing rates.

As to para. 16 of the Notice, CETF strongly supports a requirement that providers submit information about the connected devices they expect to offer. CETF observes that there was only one major provider in California that offered connected devices with the EBB program. Thus, in crafting its ACP rules, the FCC should work on providing more incentives for providers to offer connected devices for those in need.

⁵ CETF notes that some providers offer \$10-\$20 affordable broadband plans, but these have low data caps and slow speeds that make them limiting. The EveryoneOn "Affordability and the Digital Divide" Report, Dr. John Horrigan, Dec. 2021, at page 5, finds that 40% of low and lower middle class households cannot afford to pay anything for a home broadband subscription, 38% can pay \$55-70 per month and 22% can pay \$25 per month.

In addition to the information about the connected device required in the EBB program, CETF recommends the following information be required to be provided in the election notice: retail rate of the device, make/model/specifications of the device, and the actual wholesale cost to the provider. CETF agrees that this information is necessary to determine whether the reimbursement claims for the devices are compliant with the Act and the Commission's rules. Similar to the EBB device rules, CETF would add that the device should not be a "walled garden" device that may only be connected to a single provider's network, and that the Internet-enabled device have software and hardware capable of running modern applications including video conferencing and have a qwerty keyboard.

As to para. 17, CETF supports having providers submit to USAC the lists of ZIP Codes where they intend to offer supported services in order to populate the "Companies near me" tool on the USAC website so that consumers may find an ACP program provider in their areas. It is important for trusted agencies like USAC or the FCC to assist in active marketing of both programs.

As to para. 18, CETF supports accepting election notices on a rolling basis throughout the entire ACP program in order to bring providers and plans to consumers as quickly as possible, and to allow new providers to participate. Election notices should be processed at the same time as the ACP program is administered. Given USAC has experience from the EBB program, USAC should be able to manage both tasks, particularly if EBB eligible entities file a simple certification for ACP eligibility.

Para. 18 asks under what circumstances an election notice should be rejected. CETF supports rejection under the following circumstances: failing to provide all the necessary information or data in the election notice; past enforcement actions where it was found a provider violated the rules; fraud convictions of the company principals; and audit findings that show violations of Lifeline, EBB or ACP rules. It should not be based simply on a number of consumer complaints, absent verification of

program violations or issues like fraud, misrepresentation, or attempts to violate the rules for monetary gain. CETF agrees with the Notice's when it expresses concern about participating providers in the ACP being legitimate existing broadband providers committed to following the program rules, having adequate financial assets and/or financing to participate in the program fully including have adequate customer service and the ability to comply with the audits and recordkeeping, with the ability to provide quality broadband service at the promised speeds to consumers, and provide a computing device that meets the program's specifications. CETF strongly agrees that providers should commit to dedicated ACP customer service teams and service levels to ensure ACP complaints are promptly addressed by knowledgeable customer service representatives within 7 days (not the proposed 30) days.

As to para. 19 of the Notice, CETF agrees with the scope of information and data the Commission proposes to collect from the providers, including their data universal number service (DUNS), employer identification number (EIN), FCC Registration Number (FRN) and service provider identification number (SPIN). CETF appreciates the FCC looking at burdens imposed by the election notice process on small providers.

Access to USAC Systems

For the same reasons it is prohibited in the Lifeline program, CETF supports the Commission prohibiting ACP providers from offering or providing to their enrollment representatives or their direct supervisors any commission compensation that is based on the number of consumers enrolled in the ACP. While the FCC did not impose this prohibition for the EBB program to avoid discouraging provider participation and diminishing consumer choice, CETF recommends that, in this more long-term ACP program, the Commission is right to be concerned about potential waste, fraud and abuse by

rogue agents or providers who may be tempted to engage in fraud to obtain commissions. This concern is based on past issues with rogue agents of a few Lifeline wireless providers. CETF does not have any comment on the issue relating to the provider's access to the USAC systems at the end of para. 19.

Alternative Verification Process Review

As to para. 23, CETF recommends the alternative verification process used for the EBB program continue to be used with the exception of a provider's existing COVID-19 program, which was excluded from the Infrastructure Act's new ACP program. As to para. 24, CETF supports the same process for alternative verification processes in order for enough data to be gathered to support eligibility of the consumer. Regarding the new qualifying program -- the Special Supplemental Nutritional Program for Women, Infants and Children ("WIC") -- a simple approval process should be established where evidence of the prior approval of the alternative verification process is provided and the provider certifies it is adding a new qualifying program, such as WIC. CETF agrees with the discussion in paras. 26-28 that the National Verifier process is efficient, and this should be the preferred way for providers to establish eligibility of consumers. However, the alternative process should remain available for small providers, so long as there are adequate safeguards to prevent waste, fraud and abuse.

Household Eligibility

As to para. 29, CETF supports using the same "one-per-household" limit for the ACP benefit and using the same criteria as the EBB program. This approach appropriately does not limit the number of households that can be limited at a particular address but looks at how many independent economic households are at the same address. CETF agrees that the EBB program definition of household

should be used (contained at fn. 59 of the Notice). CETF agrees the use of a Household Worksheet given by the provider to the consumer to determine whether there are independent economic households at the address is acceptable and agrees the provider should take affirmative steps to ensure that each independent economic household is not receiving more than one ACP benefit.

As to para 30, Congress in the ACP has expanded the eligibility criteria for the ACP from the EBB program. Adding the WIC program and raising the maximum income for qualifying from 135% to 200% of the Federal Poverty Guidelines for a household of that size is very positive. CETF agrees with the Notice that now, ACP benefits may now flow to households whose income threshold is at or below 200 percent of the Federal Poverty Guidelines for a household that size, has been approved for the National School Lunch program or school breakfast program, has received a federal Pell grant as the current award year,⁶ meets the eligibility criteria for a providers existing low-income program, subject to approval by the Commission, or receives WIC assistance. CETF agrees with the Notice that the Commission's rules and the National Verifier process should be changed to be consistent with the expanded eligibility criteria.

As to para. 31, CETF supports taking the same approach in the EBB program as to qualifying benefit programs for the ACP. The example given in the Notice was that the FCC determined that households with students enrolled in schools or school districts participating in the Community Eligibility Provision (CEP) are eligible for the EBB program regardless of whether anyone in the household applied for the school lunch or breakfast program individually. The compelling reason for this recommended approach is the ability to more quickly place these eligible and needy families onto the ACP program without the complications and burdens of the application process. It should not matter

⁶ CETF has heard anecdotal evidence that Pell grant eligibility was difficult to prove and reserves the right to file reply comments on ways to improve on this eligibility factor.

whether the program was an emergency temporary program like the EBB, or a program of longer duration like the ACP. The clear goal is to bring unconnected eligible households quickly onto the program, and to reduce the Homework Gap for students. The FCC needs a way to enroll qualifying families that is less burdensome for school districts and parents while discouraging waste, fraud and abuse.

To this end, CETF recommends that the FCC follow the California guidelines for determining NSLP participation. The California school districts, in conjunction with County Offices of Education, work diligently to determine the NSLP eligibility of each student. This eligibility percentage is the basis for the Local Control Agency (LCA) funding. Using the Community Eligibility Provision will bring forward those households who are eligible for the ACP program, regardless of whether the particular household applied for school lunch or breakfast assistance individually. CEP narrows the eligibility to identified students who are directly certified for meals at no cost, on the basis of their participation in CalFresh, CalWORKs, the Food Distribution Program on Indian Reservations, and Medi-Cal free. The benefits are extended to all students living within the same household. Also included are students certified as homeless, migrant, foster, runaway, or participating in the Head Start program.

Notably, in California, CEP-designated schools represent approximately 26% of the eligible households. There are many small and rural school districts that do not have the staff to submit the paperwork for the NSLP and have families that are eligible but believe there is a stigma to participating in NSLP. Additionally, the documentation required needs to be straight-forward and easy to fill out both for the school and parent/guardian. There needs to be consistency in what USAC, and the providers will accept. Today there is a wide variation. Some companies will accept the State Department of Education designation for a school and permit auto-enroll for schools with 40% eligible, other companies use the number of students participating for the auto enroll feature and many

require letters that vary greatly. Some letters need to be on District letterhead, others accept a school letterhead, some require a student's name, others require a parent and student name, and the address must match the application address despite the letters being issued once a year as a form letter.

Families move during the school year. CETF strongly recommends keeping the National School Lunch Program; however, it is essential to make the documentation for USAC and the providers uniform (e.g., a picture of a student ID) and allow state Department of Education determinations to stand for schools and districts. The potential for waste, fraud and abuse should be very low.

Likewise, as to para. 32 of the Notice about whether to allow inclusion of Provision 2 and Provision 3 schools, CETF supports the inclusion of these households without having to individually qualify due to the fact these schools are located in areas of high poverty and thus, it is highly likely most households would individually qualify.

As to para. 33, CETF supports having households participating in the school lunch or breakfast program merely provide documentation from the current school year proving this when they submit their ACP application. Such documentation from a prior year should also be accepted for one more school year given the pandemic closed schools and students may not have applied for their school lunch or breakfast documentation.

As to para. 34, CETF supports the Notice's recommendations to use the same National Verifier process to verify the ACP eligibility of a student who receives free or reduced-price school lunch or breakfast. As to para. 35, CETF does suggest changes to the required documentation relating to school-based verification of a student for the school lunch or breakfast program.

As to para. 36, CETF supports the use of the same three methods to verify a household's eligibility for the ACP: (1) National Verifier and the NLAD; (2) reliance on the providers' alternative verification

process when it mirrors the ACP eligibility, subject to certain conditions; and (3) reliance on the school to verify eligibility under the free and reduced-price school lunch or school breakfast program. CETF supports the proposed requirement that the provider track the households whose eligibility is verified through an alternative verification process or a school-based verification, and to update subscriber information in the NLAD within 10 business days of receiving the changed information. CETF sees that this information will improve the quality of data in the NLAD for such households. As to para. 37 re eligibility, CETF supports this rule to ensure a subscriber is alive and eligible.

As to para. 38, it is CETF's understanding that a person eligible for WIC obtains an Electronic Benefit Transfer (EBT) card, and these are provided every three months.⁷ The weblink shows a WIC applicant must show significant information to qualify: proof of income, proof of identity for woman and child(ren); and proof of pregnancy, if pregnant. Typically, benefits are provided from 6 months to a year. Thus, to demonstrate that a consumer is a WIC beneficiary, showing the EBT card and some form of identification should be adequate. If a consumer received WIC benefits for part of a year, this should be adequate to qualify the consumer for ACP annually.

Re para. 39 on Enrollment, CETF supports the use of NLAD as an enrollment tool, along with the list of data to be transmitted about the subscriber, the service, the connected device, and reliance on an AVP or school eligibility determination to verify eligibility, and whether the households qualify for enhanced support of \$75 due to living in Tribal lands or high-cost areas.

Re para. 40, CETF supports the proposal as to the three NLAD opt-out states -- which includes California -- to have the option to apply to the National Verifier for the ACP program if they are not

⁷ See for example information at <https://pdi.rice.edu/food/wic/>

part of the California Lifeline program. More importantly, however, CETF recommends that the National Verifier should automatically accept as eligible for ACP any household that is enrolled in California's Lifeline program. Data on who is enrolled in California Lifeline should be sent from the California verification entity to USAC and included in the National Verifier data. CETF is pleased to hear California is updating its list of accepted Lifeline subscribers weekly with USAC, in order to verify that applicants are enrolled in California's Lifeline program, and thus establish ACP eligibility promptly. Should demand for ACP grow, CETF suggests that an update from California to USAC may need to occur more frequently than weekly to ensure eligible applicants do not have to wait long for their acceptance to the program.

Re para. 41, CETF supports a more flexible approach on verifying identity with the last four digits of their social security number (SSN), in order to not reveal the full SSN unnecessarily for security purposes. CETF supports the ability of other methods to verify a person's identity other than the last four digits of their SSN, particularly for undocumented residents, such as the last four digits from accepted ID such as VISA Consular card which are Country-Issued ID cards. The ACP program should be available to all United States residents and not just US citizens. This benefit should not count toward public charge designations just as SNAP, NSLP. Food pantries should not count as a public charge. The additional identification accepted should not require the applicant to travel to an in-person location but identification that can be uploaded.

As to para. 42, CETF supports requiring eligible households to interact directly with the National Verifier if not relying on an alternative verification process. An online portal and application form is efficient and fast. CETF recommends the application forms be translated in other common languages spoken in the United States, such as Spanish, Chinese, Korean, Vietnamese, Russian, and Japanese.

As to para. 43, CETF supports FCC efforts to have the ACP changes implemented with NLAD and the National Verifier by December 31, 2021, but given it is an aggressive schedule under the circumstances, if it cannot be achieved, CETF supports all eligible subscribers be allowed to receive EBB benefits until end of February 2022 and the ACP benefits thereafter until the new systems are ready.

As to para. 44, on de-enrollments, CETF supports the extension of de-enrollment requirements applicable to both the Lifeline and EBB Programs to the ACP, with modifications given the differing ACP eligibility criteria. CETF agrees that participating providers should transmit the de-enrollment information to the NLAD within one business day of de-enrollment. CETF supports USAC continuing to process de-enrollment requests directly from subscribers and notifying the subscriber's provider when the de-enrollment occurs. Having USAC, a neutral third party, handle this aspect is positive to ensure there is no additional billing after the subscriber has indicated it wishes to end its ACP subscription. CETF supports the concept of a consumer "self-service option to terminate ACP service" if that can be provided by a provider on its system.

Re para. 45 of the Notice involving "usage" requirements, the EBB required Lifeline subscribers who receive service for free to use their service at least every 30 days. The rationale is to ensure the EBB program does not pay providers for service that is not being used by the consumer. CETF agrees that it is reasonable to apply the same usage requirement to the ACP. CETF does not support the test being changed.

Re para. 46, the concern about a provider installing an "app" on the end user's device without their knowledge which would then "use" data without the end user's knowledge seems farfetched. But if the Commission believes this is something a specific provider has done or is likely to do, a simple rule

should be set that requires usage “by the subscriber.” CETF does not think records need to be maintained by a provider to prove actual usage by the subscriber, as this seems like overburdensome regulation. Re paragraph 47, CETF does not find any of the alternative proposals to be necessary, unless there is a rampant fraud problem by EBB providers.

Re para. 48, proposing the same usage rules as the Lifeline program, CETF supports the 30-day non-usage period but recommends a longer 30-day period for households to cure their non-usage. Given how burdensome the application and process are to get on the ACP program, CETF supports a longer cure period to give the consumer more time to cure the non-usage, before being de-enrolled by the provider.

Recertification

Re para. 49, CETF concurs with the proposal on annual recertification on the calendar year anniversary of program enrollment similar to the Lifeline program, because the ACP program is expected to be a multiyear program. As to the EBB subscribers who transition to the ACP, the anniversary date should be set as the date the subscriber began the ACP or Lifeline program, to give the household the longest time before the next recertification process. CETF favors an easy process to convert an EBB subscriber to an ACP subscriber. Once a subscriber has recertified for one program the recertification should be used for the other program.

Re para. 50, California has its own verification program and so CETF declines to comment on the process relating to the National Verifier except to say key goals should be administrative efficiency and ensuring the process is fair and as easy as possible in order to keep as many eligible consumers in the program while ensuring eligibility is met and confirmed by documentation.

Re para. 51, regarding recertifications conducted by an entity other than USAC, they should be done by the ACP participating providers on the same schedule as USAC, on the annual enrollment date for ACP. If a household fails to be recertified, it should be disenrolled on the same schedule as the National Verifier.

Covered Services and Devices

Re para. 53, CETF is pleased that the ACP program greatly expands the universe of Internet service offerings of participating providers “to any internet service offering of the participating provider, at the same terms available” to any non-eligible household, instead of the more narrow definition used in the EBB program.⁸ CETF supports the definition of “any internet offering” to mean any current offering of a provider as to new customers, and recommends this phrase not be defined to include grandfathered or legacy plans. CETF recommends that participating providers in their certification filings provide a comprehensive list of plans that will be available, the rate, terms and conditions, and in what geographic area they are available. Different eligible households have different needs and so a wide variety of available plans is important to the success of the ACP.

As to para. 54, the Commission asks whether minimum service standards (MSS) should be ordered as to the internet service offerings eligible for the ACP. Mandating MSS does not seem consistent with the ACP statute where providers are given wide latitude to apply the ACP discount to any internet service plan offered to the general public. CETF supports any recommended (as opposed to mandatory) minimum service standards be set forth in the ACP rules, to express the FCC’s expectation of internet service offerings that will meet the actual needs of the targeted consumers for modern

⁸ The prior EBB definition limited-service offerings to those available by a provider on December 1, 2020.

Internet communications. It is CETF's experience that many of the current voluntary affordable offers of providers to low-income consumers did not contain enough data or speed to be useful to the consumer's entire household over the full month of usage. Data caps, low speeds and expensive additional data tranches made the user experience less than ideal. While the data restrictions were eased due to the pandemic over the past 18 months, the issue of inadequate data, slow speeds, and data caps remains an important issue. The FCC could adopt the MSS from the Lifeline program as a minimum MSS guideline for any internet service offerings. From CETF's point of view, what is important is that the eligible consumer be able to perform modern applications, such as video conferencing, teleworking, distance learning and telehealth applications the entire time the consumer has the service. Finally, CETF agrees that the minimum service standards should evolve over time, given the fast pace of innovation in internet technology and uses.

Re para. 55, CETF finds the statute to be clear that an eligible consumer may be able to apply the ACP benefit to any Internet service offering "at the same terms available to households that are not eligible households". Absent showings of abuse of the program by a particular provider, CETF does not favor there is a need to impose requirements or limitations on service offerings by providers; the only statutory requirement is that the provider offer the same Internet service offering to the general public. However, if the FCC finds a provider engaging in the practice of taking ACP reimbursement while not providing a service offering that is available to all its customers, that should be grounds for the provider to be removed from the program and its reimbursements required to be returned.

Re para. 56, given the broader offering of Internet service plans in the ACP program, CETF does not see a need to mandate a requirement for at least one ACP-reimbursed service to each eligible household in each service area. The Notice also asked about the ability of the providers to implement the ACP program, given necessary changes to the provider's billing and systems. CETF agrees that

providers may have practical issues starting the ACP program by December 31, 2021, and the Commission should consider a more reasonable start period if the providers show good cause. However, should the ACP program start date be delayed, the EBB program should be extended until the ACP program is ready to begin.

Multiple Dwelling Units

Re para. 57, CETF strongly supports the adoption of measures to make it easier for residents in multiple dwelling units (MDUs) where there may be bulk billing arrangements with the landlord, such as senior living facilities, student housing, mobile home parks, apartment buildings, affordable and government owned housing units, to participate in the ACP. Like the EBB program, these types of MDUs should be allowed to participate in the ACP. First, CETF urges the MDU section of the Notice to add homeless centers as a specific type of MDU that may be eligible under ACP rules. Homeless centers are places where multiple persons reside, even if just for a night or two. It is clear that a person who is unhoused meets ACP eligibility requirements as low income under the income test. There are urgent needs for children who are unhoused to obtain a connected device and Internet service in order to participate in distance learning. Absent the Internet services and a connected device, an unhoused student risks falling behind educationally. In a homeless center, it is best to allow Internet service to be provided via robust Wi-Fi service, because the unhoused consumers lack a home for wired internet service. Given the difficulty of tracking individual families, it may be best to allow homeless centers to track discounts on capacity and occupancy instead. CETF urges FCC consideration of this very important initiative.

Second, CETF also recommends that ACP rules expand the definition / eligibility of MDUs to include multi-family serving organizations, specifically for schools, school districts and libraries that are

currently providing Internet services under the Emergency Connectivity Fund (ECF) program. The ECF program provided bulk Internet services and connected devices for unconnected, low-income students and patrons during the pandemic. Once the ECF program terminates, it is critically important that these schools and libraries be able to continue service to the needy unconnected families with students and library patrons under the ACP. Similar to entities like senior centers and dorms that provide bulk billing, these anchor institution entities should receive similar treatment. CETF recommends the Commission set forth a transition plan for these schools, school districts and libraries to transition from ECF to ACP smoothly in 2022. In this transition plan, the bulk billing entity is responsible for certifying the eligibility of the student or patron. To avoid duplicative support, households serviced under the ACP - discounted plan must consent to have their Internet services provided through the multi-family serving organization through the ACP bulk billing program.

Bundled Service Offerings

Re para. 58, CETF supports the proposal in the Notice that ACP discounts may be applied against bundled service offerings of voice, data and texting, as was allowed under the EBB program. CETF supports a prohibition on application of an ACP discount to a bundled offering of Internet and Video.

Associated Equipment

Re para. 59, CETF strongly recommends that the Commission continue to allow associated equipment such as modems, routers, hotspot devices and antennas to be funded under the ACP program on grounds it is equipment necessary for the transmission functions of Internet service offerings supported by the program. To remove it from funding will allow providers to charge additional modem and router monthly fees or required hotspot or antennas fees that will cause the total price of the Internet service to exceed what is affordable (or expected to be charged) to the eligible consumer. CETF posits

that this aspect is a decision that is discretionary by the FCC, and the removal of the “associated equipment” phrase from the definition of “benefit” in the Infrastructure Act is not dispositive of this point, given this associated equipment is necessary for the transmission functions of the Internet service offering.

Connected Devices

Re paras. 60-61, CETF is pleased that the connected devices will continue to be provided in the ACP program under the Infrastructure Act. It is CETF’s experience that the lack of a connected device is one important aspect why unconnected persons lack home broadband. Low-income persons often cannot afford a modern computing device, plus Internet service. A recent study by Amy Gonzales at University of California at Santa Barbara concluded, “Insufficient access to large-screen devices can have negative consequences for people of all ages, but especially students and other vulnerable populations. The costs of persistent “under-connectedness” has only become more urgent in light of the surge in computing dependence during the COVID pandemic, as millions of people worldwide have started to work and learn from home. A couple of additional observations relevant to the FCC finding ways to compel providers to provide devices and quality devices are cited in this report:

- Older students also benefit from device ownership. In one study, university students that owned a laptop performed better in school than those that did not own a laptop ,
- Students with computers in the home were more likely to enroll in high school and were also more likely to graduate from high school.

- High school students with computers in the home also had an easier time completing school assignments and passing exams.⁹

Consistent with the prior EBB decision, CETF supports the FCC’s decision to not support cellular phones or smartphones in the definition of “connected devices” for the ACP program. A student may not research or write a term paper on the small screen of a smartphone or on a low-end tablet with a small screen, low memory, and a small or cramped keyboard that makes data entry difficult.

As to the suggestion of one EBB program provider to allow tablets with cellular capabilities mentioned in the Notice, CETF is open to this concept, but CETF strongly recommends that the Commission provide specific requirements should it decide tablets with Internet Wi-Fi capability are ACP-eligible. Notably the capability must be for the device to connect to any Wi-Fi and not be restricted to a single carrier. Tablets are mobile and need to function in school, home and work environments.

CETF expresses the following concerns about smartphones and low end device limitations, which focus on the screen size, memory, and functionality: the ability to accurately type and edit; ability to perform website research easily on the small screen; the ability to conduct video calls on common platforms like Zoom, Microsoft Teams, Google Classroom for an overall classroom experience; the ability to effectively take a multiple choice question online exam on a small screen; the ability to video edit, the ability to have good audio quality with or without headphones and the devices ability to avoid slowing down after prolonged use, and capacity to handle higher Internet speeds.

⁹ The Importance of Large-Screen Device Ownership, Dr. Amy L. Gonzales, Nov. 2021. **Digitunity** commissioned leading expert [Amy Gonzales, an Associate Professor of the Department of Communication at the University of California, Santa Barbara](https://digitunity.org/2021/11/) to research the status of devices in home and their impact. <https://digitunity.org/2021/11/>

A connected device must have or connect to a qwerty keyboard for input. These devices must be able to connect to any Wi-Fi system. Some technical challenges encountered by students with low end devices include visibility of the screen, difficulty getting the device to run video applications, slow processing as to be unable to work or chat in real-time, and poor sound quality. Also consider whether the device will provide an environment for an adult working remotely, an overall online classroom experience for a student, and whether it can support a multi-app experience.

CETF does expect connected devices to be accessible to and usable by individuals with disabilities. This means adaptive technology may be needed for students in school. A provider can ask for a letter from the school stating the students' Individualized Educational Plan (IEP) requires a specific piece of adaptive equipment. The provider should not be able to require the actual IEP as it contains private information about the student that is irrelevant to obtaining Internet or an accessible device from the provider.

Re para. 62, relating to provider reimbursement procedures for providing connected devices, CETF concurs with the Notice to only allow one connected device per household in the ACP program. CETF suggests it would be reasonable for an eligible subscriber to obtain a new device every two years, especially since the connected devices are not going to be top of the line products but low-end devices. EBB policy was once a year as the program was temporary. By "household," CETF refers to an economic household. There are many instances of multiple families living in one house or apartment, and each economic household should be entitled to a connected device. CETF further suggests that a household that received a connected device through the EBB program should be allowed to receive a second device through the ACP program after Year 2 of having the device. CETF would allow such a household to provide a certification and/or proof (police report, school confirmation) that the first connected device was broken, stolen, or lost, and be able to obtain a single replacement device. CETF

supports the Notice's proposal that the provider must actually charge the household the \$10 but not more than \$50 for the connected device before it can claim the \$100 reimbursement from the ACP fund for the device. CETF supports a requirement that providers retain documentation to prove the eligible household paid its financial contribution, including how much was paid by the consumer. CETF supports a requirement to have these records being submitted in order for payment to be received.

Re para. 63, CETF recommends changing the certification requirement as to the reimbursement cost of the connected devices to be the actual cost of the device, not "market value" for providers seeking reimbursement for connected devices. "Market value" is defined as the retail value of the device on the open market. If the provider received a volume discount for the devices, the savings should be passed to the consumer, and the "market value" set at the actual cost. Providers should not profit off the ACP or EBB program as to connected devices, and not receive more than the actual cost of the connected device.

Re para. 64, CETF supports limiting providers to claiming the reimbursement that reflects the actual cost to them of the device and not the market value, as discussed in the paragraph above. The required proof should be the actual invoice for the connected devices.

Re para. 65, CETF supports the waiver process relating to a connected device reimbursement for a provider who provided the device, but the household then changed receipt of its EBB/ACP benefit to another provider before the end of the service month. There should be evidence required that the connected device was actually received by the household, the cost of such device for reimbursement purposes, and evidence that the household remains in the EBB or ACP program for that month. There is a cost to shipping the device that providers should be able to recover. Shipping companies can

provide the providers with documentation that devices were signed for when received. If the providers work with a third party to provide the devices, it can request that party provide this documentation.

Re para. 66, CETF supports the USAC dispute resolution process described in para. 66 for use in the ACP program.

Re para. 67, CETF offers these comments on the connected devices that were offered in the EBB program, with an eye for improvements. It was CETF's experience that very few providers in California offered connected devices. Only Cox Communications and a few small resellers such as human-I-T offered devices. The FCC needs to provide incentives for device offers. CETF is also concerned about the quality of the connected devices provided, and whether they are robust enough to last more than a year or two. If the ACP program lasts 4-5 years and a household only receives one device in the program, additional considerations are important. The device needs to be of a quality to last 4-5 years. Further are the capabilities -- such as Wi-Fi enabled, adequate memory, screen size, speed of processing, battery life -- adequate over time for modern applications, such as video conferencing, distance learning, telework and multi-application work. This is worth considering to avoid adding more electronic waste into the system. No device should be a "walled garden" device that only works on one provider's network. No smartphones were allowed for EBB and the Notice continues this prohibition for ACT. CETF concurs with this proposal.

Re para. 68, CETF suggests that given the EBB experience to date, some Minimum Service Standards should be established. CETF suggests that the FCC consider MSS and specifications that will ensure that the device has an adequate screen size and a qwerty keyboard in order to perform functions such as research on the Internet and editing documents and video. Also, CETF recommends that the connected device should be able to work with any Internet service provider, and not be a "walled

garden” device that only works on one service provider’s system. Such a walled garden device will limit the consumer’s choice of service providers. CETF supports specifications that require devices to support video conferencing platforms, to be Wi-Fi enabled, to be able to work on any Wi-Fi system, and to have video and camera functions. CETF supports the idea that competitive bidding and the requirement to use price as a primary factor will ensure cost-effective purchasing.

Re para. 69, CETF has no comment on this discussion of Section 54.10.

Enhanced Affordable Connectivity Benefits

Re para. 70, CETF supports the continuing definition of “Tribal lands” as used in the Lifeline program.

Re para. 71-72, CETF supports the definition of “high-cost area” for the enhanced benefits for households in such areas. CETF finds the NTIA definition to be acceptable because it does look at factors like the remote location of the area, lack of population density, unique topography, high rate of poverty, and other factors contributing to the higher cost of deploying broadband to the area.

Reimbursement

Re para. 74, CETF does not have comments on the snapshot proposal but brings to the FCC’s attention the following situation. CETF suggests that the reimbursement system should allow the provider to provide the customer with EBB or ACP service as of the date service began as long as the date of enrollment is before the date of service. In California, CETF has had reported incidents where a provider has enrolled an EBB customer but required the customer to pay market rate for one to three months, allegedly because the NLAD approval for that consumer did not come through until the second or third month. This situation is very difficult for the consumer because the consumer cannot afford to pay the higher retail rate, while it is waiting for its NLAD approval to be received by the

provider. It also discourages the consumer from continuing the program due to the normal retail rate being charged.

Re para. 75, the Notice proposes that participating providers that are providing both the Lifeline discount and the EBB to a household's supported services first apply the full Lifeline discount before determining the EBB reimbursement amount. This is acceptable as long as it is not removing a Lifeline benefit that is in use by the consumer. This same approach is suggested for the ACP program, with a further clarification that the Lifeline discount would include both the federal and any state support. The FCC asks whether it has any authority to require the benefit of any state low-income broadband program be applied before a provider calculates the ACP amount to claim. CETF does not object to this process otherwise the provider would double recover the state Lifeline support in addition to the ACP support.

Re para. 76, CETF does not express a view on partial payment to providers for a partial month of service to an EBB or ACP eligible consumer. CETF agrees with the prior finding that this is a cumbersome procedure to administer. Having said that, if a consumer signed up with a provider and that provider is not able to provide adequate service to the eligible consumer for whatever reason, the consumer should be able to switch its provider promptly to another provider to obtain working service. For that reason, it may be prudent to have a snapshot on the first and 15th of the month.

Re para. 77, on whether to apply current rules that the provider upload and certify its EBB claims by the 15th of the month, CETF declines to answer this question but reserves the right to file reply comments after it hears from both USAC and providers what they think is workable.

Re para. 78, on whether a provider should be able to revise a claim, and if so, what the deadline is for such revision, CETF recommends that one year is too long a period because this will impact the

forecasts of available funding. A more reasonable time period of six months would be more acceptable.

Re para. 79, CETF concurs with the proposed provider certifications that it will not charge any early termination fee, there will not be any mandatory waiting periods, and that the required copay was assessed for a connected device. CETF favors adding a certification stating the provider will not charge or has not charged the household for the amount the provider is seeking reimbursement.

Consumer Protection Provisions

Re para 80, CETF strongly supports the proposed rules on consumer protection. Providers should not deny an eligible household the ability to obtain an ACP benefit based on a past or present arrearages with that provider, charge an early termination fee, or subject the subscriber to a mandatory waiting period. These consumer protection provisions are very important to low-income and disadvantaged consumers and should be implemented in the ACP program.

Credit Check Prohibitions

Re para 81, CETF strongly supports the prohibition of credit checks as a condition of applying the ACP benefit to a provider's Internet service offering. It is CETF's experience that providers refuse to provide service to a consumer who has had a past situation where it could not pay its bill or has not returned customer premise equipment, such as a modem or router. When one is extremely low-income, being able to afford Internet service can be difficult when one needs to pay for critical necessities such as rent or food. For this reason, it is very important for the Commission to retain this rule and certification by providers on this point. CETF agrees that self-certification is appropriate but that also enforcement actions be taken against providers who violate this rule.

Re para. 82, CETF does not favor credit checks when a consumer is enrolling for new service are appropriate for equipment provided under the ACP program, or for other non-ACP services, even if a bundled service. If service will be extended under the ACP program, other services should not be provided under which the provider can then refuse service based on a credit check.

Re para. 83, if a credit check is allowed for bundles, then providers must offer a standalone Internet that is comparable to the discounted price in the bundle.

Non-Payment

Re para. 83 on non-payment, CETF reads the requirement on not declining to enroll a household based on any past or present arrearages with a broadband provider to apply when the consumer is first applying for service under the ACP. CETF reads the Infrastructure Act language allowing a participating provider to terminate a subscriber's access to broadband service by the ACP after 90 days of non-payment, to be applicable after service is commenced. CETF does not see any inconsistencies as to the first provider to provide service. Once disenrolled from the first provider, the subscriber could seek to obtain service from a second provider. This second provider may not run a credit check to determine if there are any non-payment situations in the past and will be required to provide service. Similarly, the second provider may terminate the consumer if the consumer fails to pay the second provider after 90 days. CETF does not object to a provider voluntarily mitigating the non-payment by lowering a customer's service quality (ex. lowering the consumer's download speed) if the rate of the supported service exceeds the amount of benefit applied to the consumer's bill. This should not be required but allowed. Regarding whether the Commission should require providers to transmit to NLAD information that will allow the Commission to determine whether the household is assessed and charged a fee for the ACP-supported service after the benefit has been applied, CETF does not object

but there needs to be a distinction between the balance due on a rate plan, compared to a fee or charge like a late fee or a rental fee..

Re para. 84, CETF is very pleased that the Notice acknowledges there have been situations in the EBB program that providers may fail to timely apply the ACP benefit to a household's bill after the household is enrolled in the program. The Notice notes that there were complaints about providers in the EBB program who were delaying application of the program benefit to subscriber accounts for an unreasonable period of time. CETF heard a number of complaints about one participating provider that was not implementing the EBB rate for up to three months and charging the consumer the full retail rate in the meantime. When CETF raised this with a senior official of the company, the excuse given was that the household was not processed through NLAD until the third month, and so the provider was justified to charge the full retail rate until the date the NLAD approval was received. In contrast, other participating providers would provide the EBB discount backdated to the first day of enrollment. CETF finds this inappropriate practice of one provider to refuse to provide the EBB discount to the consumer from the date of enrollment to be contrary to the intent and spirit of the law. To prevent this from happening again, CETF suggests a requirement that once a household is deemed eligible for EBB or ACP, the provider must provide the discount as of the date of the enrollment, otherwise the consumer is stuck paying a high retail rate that was not expected and is unaffordable.

Re para. 85, CETF supports the proposal to provide adequate notice of nonpayment of their delinquent payment status before terminating the subscriber's notice for non-payment. CETF suggests that rules should be borrowed from the telecommunications law. A reasonable time period should be 30-60 days' notice, which escalates to the 90-day termination for non-payment. CETF suggests a special ACP dispute resolution process be handled by the FCC, with customer service reps who are familiar with the ACP program and rules.

Consumer Complaint Process

Re paras. 86- 87, it is critically important that there be a consumer complaint process similar to that for telephone consumers. The complaining consumers should have options of calling in or filling out an online form. It is important to offer the call-in option if the consumer has been terminated by its Internet provider. CETF recommends a dedicated EBB and ACP complaint department, with personnel that include Spanish speakers and speakers of other non-English languages commonly spoken in the nation. The consumer complaint staff should be specially trained in the ACP and EBB program rules and should be trained to work appropriately and sensitively with low-income and disadvantaged populations, including Tribal members, seniors, and persons with disabilities.

Re para. 88, CETF supports expeditious action by the FCC to investigate potential violations of program rules and requirements and to enforce compliance. Should there be intentional fraud by a provider or a consumer, forfeiture penalties should be allowed to be assessed.

Regarding para. 89, CETF supports the Infrastructure Act's requirement that ACP participants be provided with information about the FCC's dedicated complaint process by participating providers. CETF recommends information about the FCC complaint process be required to be prominently displayed in normal size font on the provider's website, in the initial welcome letter from the provider to the subscriber (electronic or physical letter), on the subscriber's bill (electronic and printed copies), and as part of the Frequently Asked Questions on the provider's website. If there is a dispute, the provider should be required to inform the consumer of the FCC's dedicated complaint process and provide information to the consumer on how to access it.

Regarding para. 90, CETF supports the FCC issuing regular public reports regarding consumer complaints on provider noncompliance as to ACP rules. CETF recommends that public reports

include a keyword analysis, frequency of complaints based on topic, and a summary of provider complaints by state. Annual reports seem reasonable, and they should be accessible on the FCC's website and distributed to state public utility commissions, state attorney generals, and any organization that has requested access to the report. The FCC should not rely on this report as the only enforcement mechanism. Providers should be allowed to take advantage of this program and engage in waste, fraud or abuse. Similarly, consumers should not be providing false certifications in order to obtain discounted broadband service when they are not in fact eligible.

Additional Consumer Protections

Regarding paras. 91-92, CETF does not find the purported conflict to be hard to resolve. In our view, the Administrative Procedure Act allows exemption for consumer protection requirements. The Infrastructure Act mandates the Commission promulgate additional consumer protection rules for the ACP. The only real issue is the timing of the consumer protection requirements. Based on the continuing pandemic, the essential nature of broadband service to consumers during the pandemic, and the detailed rules in the predecessor EBB program rulemaking a year ago, there is good causes for the FCC to reduce the APA timeline to issue consumer protection rules on a faster time schedule than the APA normally allows. CETF supports rules coming out by March 2022.

As to para. 93, CETF has concerns about participating providers ``upselling” consumers on plan packages. By “upselling,” CETF means that the consumer called the provider to get a low-cost plan, and the customer service representative (CSR) sought to sell the customer a higher priced plan or a bundled plan for a price that is higher than what the consumer intended to spend. This practice should be prohibited. One way to avoid this issue is to require providers to have dedicated CSRs for the ACP program who are well trained in the program, and who are not compensated on a commission basis.

“Downselling ” refers to the provider trying to sell the consumer an inferior or lower quality service plan from the service plan that the consumer intended to buy or already had subscribed to during the EBB Program. CETF is concerned ‘downselling’ is a trojan horse for company policy that does not allow customers to downgrade their service even if they want to. The FCC should not prohibit “downselling” or only do it in certain circumstances. The consumer should be able to receive full information about his or her options and make a decision what is best for the household, without undue pressure from the CSR or having the choices reduced in any way, based for example, on an illegal credit check or responses to questions from the CSR.

As to para. 94, CETF expresses concern about inappropriate provider contracts that impose an extended service contract as a condition of participating in the ACP. CETF is pleased that the ACP prohibits early termination fees if the consumer does elect to enter into and then terminates a contract for Internet service. This ACP prohibition should be imposed as a flat rule. The goal is to avoid any unexpected fees that the consumer does not expect to pay based on an extended service contract. CETF would define “an extended service” contract as any contract that is over three months. CETF suggests that providers be strictly forbidden to require an opt-in to a longer-term contract before the household enrolls in the ACP program, or after such enrollment. Providers can structure offers that provide incentives without penalizing the consumer if for reasons beyond its control, it needs to terminate the contract. A consumer can earn loyalty points that are not redeemable for cash buy for extra data, or higher speed service in three-month packages.

Re para. 95, CETF suggests the decision of the Commission states that providers may not impose any inappropriate restrictions on ACP customers to switch their Internet offerings. Appropriate restrictions should be defined as ones that apply to all customers on that Internet offering, and inappropriate restrictions are ones that have a disparate impact on ACP customers, whether intentional or not. Other

inappropriate restrictions may be requiring terms and conditions as to the offer for ACP customers that do not apply to non-ACP customers. Finally, the Commission should affirmatively state that customer service representatives of participating providers may not seek to upsell ACP customers to other more expensive offerings, bundled offerings (particularly those with video), or those with term contracts.

Regarding para. 96, CETF agrees that there should not be any restrictions on ACP consumers who wish to switch providers other than to return customer premises equipment. CETF requests that the FCC prohibit providers from seeking to recover any discounts passed through to the household if the provider is unable to claim the household as an ACP subscriber as a result of the transfer. Any attempt by the provider to recover the discount that was provided by the provider should be deemed inappropriate and should be flatly prohibited.

CETF agrees that poor customer service by a participating provider, failure to deliver the service offering within a reasonable time period, or failure to deliver a connected device within a reasonable time period, should be valid reasons for the ACP subscriber to make a provider switch. CETF also finds it is inappropriate for providers to require subscribers to call in to speak to a customer rep to cancel their service. CETF favors a requirement that an ACP customer be able to disenroll online on the provider's website, to ensure the provider does not try to save, downsell or upsell the ACP customer. As noted, before, CETF opposes any early termination fees as a result of a disenrollment from a provider by an ACP subscriber.

Re para. 97, CETF praises the FCC for seeking to protect the purpose, integrity and intent of the ACP. There is no question that in the history of telecommunications programs that benefit low-income or disadvantaged consumers, there have been a few unscrupulous companies who provided poor communications service, shoddy devices, and lousy or nonexistent customer service to the target

communities. As a result, CETF suggests the FCC promulgate an ACP “Good Faith and Fair Dealing Pledge” containing ethical and good customer service practices that participating providers would voluntarily certify. These might contain things like prompt initiation of service (48 hours) after eligibility is established, providing the connected devices within 7-14 days, a dedicated customer service line for ACP customers, easy online de-enrollment, free truck rolls for installation, and the like. The FCC’s list of eligible participating providers could show which ones have signed the ACP Consumer Promise.

Re para. 98, re provider misconduct, the FCC should assess fines for any provider who defrauds, cheats, or fails to comply with ACP rules. The provider should be required to reimburse any consumer it cheated promptly. The FCC should work with law enforcement authorities if a provider is engaging in fraudulent or illegal activity in the program. The FCC and USAC should publish on its website a public list of providers who have been banned from the program.

Disclosures and Consumer Consent

Re para. 99, CETF supports the Notice’s proposed disclosures and consumer consent provisions for the ACP program before enrolling customers.

Re para. 100, CETF agrees with the Notice’s disclosures about the nature of the ACP program to best inform the subscriber about the nature of the program. We support the disclosure that: notifies the household about its ability to file a complaint about the provider through the FCC’s Consumer Complaint Center; discloses the ability of the provider to disconnect a household for nonpayment after 90 days; and advises on the recertification process. The FCC should adopt a simple requirement that the provider shows the consumer saw and agreed to the notices, such as clicking on a button to confirm it read the disclosures.

Re para. 101, CETF supports disclosures that a consumer has the right to move its EBB or ACP benefit to any other provider at any time. This should be part of the pre-enrollment information to which the consumer consents. Next, CETF agrees that there needs to be some clear evidence from the household of its intention and consent to switch providers before the switch is effectuated to prevent fraudulent transfers of service to which the household did not consent. The provider picking up the service can send a text or an email to the account to enter a code to confirm they want to leave ‘x’ company and move to ‘y’ company. Re the number of transfers per month a customer may make, it is reasonable for the transfer to not be more than one per month, unless there are extenuating circumstances.

Re para. 102, CETF supports a simple mechanism for the provider to obtain the household’s affirmative consent to take EBB or ACP service prior to enrolling the household in the program. This can be a simple email or mailed document to the household’s mailing address. The date of the consent and evidence of it should be retained electronically by the provider for audit purposes. We agree with the Notice where it prohibits a provider from requiring a connected device in order to enroll with the provider. Such a prohibition may prevent rogue providers from engaging in shady practices to obtain the highest possible benefit from the ACP program, while providing a low-quality device and service.

Re para. 103, we agree that only participating providers who have been approved by the ACP program should be allowed to solicit subscribers to the program and obtain consents. CETF requests that the FCC ensure there is a clear agreement written in simple and easy to understand language describing the program, explaining the benefits, and the rules.

Re para. 104, CETF has serious concerns about what happens when one benefit program ends, for example the EBB, before the next one (ACP) is ready to be implemented. CETF expects many consumers will have “sticker shock” when the full retail rate (which they may not be able to afford)

appears on their bills. As a result, CETF supports the 60-day transition period, January - February 2022, of the EBB to ensure this does not occur. CETF urges at least two 45 days' notice of the end of the benefit program to give consumers time to change their service plan or ISP before a higher retail rate would begin. It is important for an enrolled household to be able to terminate at any time, without penalty.

Re para. 105, CETF declines to respond to this question which is directed to providers as to how much time it needs to prepare the necessary disclosures and ensure they have mechanisms in place to capture a consumer's affirmative consent before enrolling the household in the program.

Promoting Awareness About and Participation in the Affordable Connectivity Program

Re para. 106, CETF interprets the Infrastructure Act language as providing a way for customers who are either new subscribers or who are re-upping a term contract with a provider to learn about the ACP and have that as a new option if they are eligible. CETF urges the FCC to require proactive marketing of the ACP by participating providers to ensure as many eligible households know about the program and may take advantage of it. CETF observes that during the EBB, it did not see very much advertising about the EBB from the participating providers. The drafters of the Infrastructure Act wisely included this requirement to ensure providers inform their new and continuing subscribers about this option. CETF is pleased to see the Notice language about requiring notification about the ACP be in the customer's preferred language. CETF strongly supports this in-language requirement. In California critical notices like contracts, termination notices and the like are required to be in-language, for the major limited English languages spoken in the state. This requirement is very important for the limited English speaking and immigrant communities as it relates to financial decisions which they may better understand in their first language. Providers could include with an

annual report a listing of their compliance with all consent notices, advertising copy, a list of where they advertised and the dates, etc.

Re para. 107, CETF urges the FCC to collaborate with other federal agencies to ensure educational promotion of the ACP program to households who qualify for the program through a program conducted by that federal agency. The FCC could provide flyers and suggested messages to the federal agencies to share in text messages, on their websites and hand out in their field offices that see consumers. It is critical that federal agencies with qualifying programs educate qualifying consumers, like Lifeline, Medicaid, and SNAP that they qualify for this essential program.

Re para. 108, CETF is pleased at the foresight of Congress in requiring federal agencies to update their Systems of Records Notices to provide to households participating in a qualifying program information about the ACP. Given this is a federal law, the FCC does not have to be concerned about its authority to compel the agency to comply; the law is adequate. The FCC should be able to make this requirement as simple as possible by providing the copy and text for ACP notices for the other federal agency.

Re para. 109, CETF urges the FCC to engage in consumer research and conduct focus groups to learn the best advertising tactics and messaging for the ACP program. There should be some learnings from the EBB program, and the FCC should have a workshop with providers and national nonprofit organizations who are deeply experienced in digital adoption programs. CETF urges the FCC to engage in paid media campaigns to help get the word out about ACP to target communities. Similar to its Digital Television Transition campaign, the FCC should ask broadcasters to run public service messages. Advertising works best when there are multiple messages from multiple sources reinforcing each other. For example, radio ad airing in the weeks before and after agencies have sent out an email

or text messages to its clients. The FCC should also advertise on ethnic owned media, TV, and radio stations, and social media in addition to other tactics found to be successful for the target low-income and disadvantaged communities. CETF notes that in looking at target communities, the FCC should cast a wide net to include low-income communities, immigrants, seniors, Tribal Nations, people with disabilities, people who are unhoused.

Re para. 110, CETF appreciates the idea in the Notice that the FCC could stand up a grant program to provide grants to support consumer outreach to help consumers enroll in ACP and to subscribe to a home Internet service. CETF supports digital navigator programs which other sections of the ILJ Act will support. However, an additional solution is for the Commission to require participating providers to actively advertise the ACP program during time when consumers are awake.

In California CETF provides grants to non-profit organizations to assist those who call as a result of the advertising CETF does. In the last few years, Frontier Communications also did the same. CETF created a system that allows calls based on the ZIP code a caller enters to be routed to community-based organizations across the state. In November 2021, Los Angeles County Board of Supervisors directed its Internet Services Department to use and promote existing subsidy programs to ensure low-income residents could connect to quality affordable Internet. The County agency asked CETF to partner with it to get the word out about EBB and ACP. Since CETF has been operating a public awareness program on a limited scale for a few years, we had the material, messages and motivation to ask the advertising firm, SAESHE, to adapt the CETF collateral for LA County's EBB/ACP campaign. The effort launched December 6, 2021, with LA County adding funds paying for additional media buys. CETF will share more details with the FCC should it decide to do regional or national advertising. This is an example of a partnership of a local agency and a nonprofit organization that is deeply experienced in digital adoption issues.

Re para. 111, CETF urges the FCC to consider a paid media campaign. The FCC should hire an experienced national company with a track record in reaching the target communities. These professionals will be able to design a campaign that can be tailored to regions of the country using a broad variety of advertising tactics to reach the targeted communities.

Re para. 112, CETF supports the idea of the FCC providing grants to outreach partners. These should be deeply experienced nonprofit organizations that have worked on digital adoption issues for at least two-five years. Any outreach partner must be given the goal of actually effectuating ACP sign-ups by target communities, not just advertising. It is CETF's experience that a number of customer meetings/discussions are required to educate and coach the customer through the enrollment and eligibility process. CETF knows there are a number of quality organizations that could undertake effective outreach in different areas of the country.

Re para. 113, CETF suggests these other tools to increase the effectiveness of program outreach efforts: (1) participation in community fairs where target communities will be; (2) an active social media campaign using Digital activists to promote the program; (3) public service advertising on television and cable; (4) engaging with NARUC state commissioners to enlist the help of state public utilities agencies; (5) engaging with state governors and local mayors to promote the campaign.

Public Awareness

Re para. 114, CETF strongly supports a requirement that every participating provider be required to advertise and publicize the ACP program to the communities most in need. CETF agrees that the advertising should include information on how to enroll in the program, such as a weblink or a customer service number. CETF urges the FCC to have providers have dedicated customer service representatives for the program, a dedicated call-in telephone number, in order for the households not

to be upsold to more expensive plans. The FCC should provide a list of suggested advertising tactics and require a semiannual report on what advertising was done, dates, times and samples of the advertising. CETF strongly recommends that if appropriate, the advertising should be in-language and in-culture. CETF agrees that targeted messages and promotions, notices on the home page of the company's consumer website, and other messages included in emailed notices. CETF reminds the FCC that it did an outstanding job on the Digital Television Transition campaign, and much could be borrowed from that effort. CETF has partnered with utilities in California to reach their customers receiving subsidies with the message that robust home Internet can be affordable and refer interested parties to the non-profits CETF funds to assist low-income consumers. CETF is seeing 500 to 1,500 inquiries a month from this educational messaging.

CETF requests the Commission consider developing messages to help consumers understand that with subsidies both mobile (via Lifeline) and home Internet (via ACP) are possible, the benefits of each, and potential cost savings from being able to use your mobile phone on a home Internet Wi-Fi service that has a lot more data. The consumer then saves the mobile data for when they are outside the home.

Re para. 115, CETF supports the Notice's proposal for a similar advertising requirement for ACP as the Lifeline advertising requirement. CETF finds the list in para. 115 very comprehensive to ensure that consumers are clear about the program, its benefits, its requirements and the possibility of obtaining a connected device, with the specifications. CETF wants to ensure that information about the fact the government program can end or that losing eligibility will mean the benefit will end is clearly set forth. Finally, CETF supports critical information about the service offering to be displayed, such as the monthly rate to the customer, the upload/download speeds, any data caps, and any limitations of the plan. CETF also supports enough detail about the connected device to be posted so that a consumer can assess whether it is capable of meeting the household's needs.

Commission Guidance

Re para. 116, CETF supports the FCC establishing a detailed website page similar to Lifeline where it provides robust guidance, forms, instructions and technical assistance for an ACP consumer. Among the information on the site should be a list of participating providers that may be searched by ZIP code. CETF comments that during the EBB program, the FCC searchable list was not very useful because the search brought up many national providers that in fact did not serve as many areas as it represented. The participating provider should be cautioned by the FCC to only include ZIP codes where it truly offers the ACP program throughout the majority of the ZIP code. The website should explain ACP eligibility clearly. CETF also suggests that the FCC website contain explanations of what broadband is, what upload and download speeds are necessary for certain common applications like video conferencing, distance learning and telehealth applications, and provide a glossary of common terms to educate consumers. CETF also suggests that the FCC website list typical connected devices that are being offered, with a plain English description of the difference between a tablet, laptop and personal computer. The FCC should provide a list of suggested minimum requirements for a tablet, laptop and PC that is recommended to be able to perform modern applications. CETF suggests the FCC provide a list of stores or discounted online dealers where a person may buy a refurbished computer or laptop at a reasonable price. If the FCC does enter into grants with organizations to assist consumers in learning about the program and assisting them in enrolling, these organizations should be listed with their contact information and geographic area served.

Data Reporting and Tracking of Available Funding

Re para 117, CETF begins its discussion of data reporting and tracking of available funding by thanking the FCC for its work on EBB (stood up quickly and under time pressure). CETF found the

data on how much EBB funding was left, and the statewide data to be very helpful as we worked to spread the word and measure our results against our efforts over time.

CETF supports all the data that was collected and distributed for EBB also be collected for ACP, particularly the granular enrollment data which helped us know where we were succeeding and where we were not as a state. Enrollment by 5-digit ZIP code and counties is very fruitful. The FCC may want to inquire if the 3-digit ZIP code file is needed since the 5-digit file is available. CETF suggests the following new areas of data be tracked:

- Churn data as it can add artificial yet real costs if churn stems from a resolvable issue, e.g., like the lack of customer service so the enrollee goes to another company when she has an issue.
- First time Internet subscribers by category (mobile and home).
- Enrollments by companies by states
- Connected devices by 5-digit ZIP Code
- Mobile and home service plans subscribed to that are sorted by the amount of the copay and another sort by the data available in the plan, so we see how much low-income households are paying for levels of service.

It is ideal if the data is consistently available at the same times each day, week, and month. Reports on communications from other federal agencies sent directly to their clients are useful to know, so we better understand changes in rates of enrollment.

If there is a high de-enrollment percentage for a particular provider, this would provide a signal to the FCC to investigate the provider's practices. CETF urges there be an FCC ACP annual report to show progress, trends and more granular data (including per company data) as a nation and by state. The

annual reports could also contain “best practices” and “success stories” as encouragement, as well as samples of successful advertising at the national, state and local levels.

Regarding Para. 118, in establishing what ACP data should be collected, the FCC should consider what goals the Act set out for it and what goals it is setting for itself. Then it will want to determine all the data that will measure its success for its goals. FCC should attempt to bring 98% of American residents in every state and region online, including rural, low-income and disadvantaged households. The FCC should ensure that each household has affordable, high-quality broadband and voice services, such that the household can participate in modern online activities. The service offering should provide adequate broadband speeds, data and latency for the consumers to use modern applications. The FCC should strive to have provided to each eligible household at least one connected device that meets the minimum service standards to access the Internet. To that end, the FCC should ensure that students have adequate learning devices and service at school and at home to ensure there is no Homework Gap. Finally, schools and libraries should be allowed to provide bulk service with ACP discounts to low-income, disadvantaged or unhoused students who lack service or connected devices after the Emergency Connectivity Funds are expended.

Re para. 119, CETF supports the FCC’s inquiry on whether the ACP is delivering value to low-income consumers. CETF is pleased that the Infrastructure Act gave a discount on regular retail plans of providers. It is CETF’s experience that some of the voluntary affordable broadband plans provided by Internet Service Providers in the past for about \$10 per month were not a robust enough service plan to meet a household’s needs. The data plan would run out and the household would have to buy additional minutes at a higher rate. The provided device was sometimes low end with inadequate memory, processing speed, no keyboard, poor sound quality, or a poor-quality camera to accomplish modern tasks online, such as video conferencing, video editing, distance learning, or engaging in

telehealth applications. So, as the FCC assesses the program, it must dig deep to ensure that the program is providing what these households need.

CETF posits that by running the ACP and Lifeline programs side by side, the FCC will gain valuable knowledge about what is working well. To this end, gathering data about both the ACP and Lifeline during this time period will be very instructive to improving both programs. As Hernan Galperin, USC Professor at the Annenberg School of Journalism notes in his upcoming Policy Brief on EBB Lessons Learned, “.... the close association between the two programs also suggests that the EBB program may be replicating the problems that have resulted in low (and falling) participation rates for Lifeline, despite offering a significantly larger subsidy.”

Re para. 120, CETF agrees that requesting some data on usage of data, plan features and the like from participating providers would be useful. If this is too burdensome, the FCC could gather it from a small representative subset each year to gain a snapshot of information. This data should include broadband speeds (upload and download), data used per month, data cap/allowances, co-payment, churn, households enrolled, households disconnected, and connected devices provided (what wholesale cost, what co pay by the household).

Transition to the Affordable Connectivity Program

Regarding para 121, CETF supports the Notice’s process for the “households who qualified” for the EBB program to be transitioned to the ACP during the 60-day transition period. CETF agrees that since the eligibility for ACP only changed a little bit, the bulk of the EBB subscribers should be able to be smoothly transitioned. For those EBB subscribers who do not qualify for ACP, they should be given at least two notices 30 days in advance to disenroll in time to not be charged a normal retail rate.

Re para. 122, CETF supports the Notice's suggestion that an enrolled EBB subscriber must opt-in or affirmatively request enrollment in the ACP. CETF wishes this was not necessary, but it understands that the benefit level is dropping from \$50 a month to \$30 a month for all but the Tribal and high-cost land households and customers must indicate they understand this change. CETF suggests the opt-in be a very simple exercise, where the subscriber checks the box, it wishes to enroll in ACP and confirms its eligibility is still valid.

As to the verification of one-per-household rule, CETF supports giving the household at least 60 days to fill out the worksheet for the ACP. It is CETF's experience during the EBB program, that some providers do not allow more than one per household regardless of the one-per-household worksheet that showed more than one economic household in the house or apartment. The FCC should make clear that if the one-per-household worksheet indicates more than one economic household in the premise, the provider must provide two ACP benefits and two connecting devices, one per economic household.

Re para. 123, CETF supports a 60-day period for EBB-enrolled households to opt in or affirmatively enroll in ACP. (This assumes that providers are ready to enroll ACP households by March 1, 2022,) If there are delays in providers being ready to enroll ACP households, then CETF supports a longer transition period for EBB - enrolled households to indicate they wish to move to the ACP.

Re para. 124, CETF suggests four notices: a 60-day notice, a 45-day notice, a 30-day notice and a 15-day notice be provided to EBB subscribers to inform them of the ACP, the need to opt - in, and of the new lower benefit level. CETF does not find that 30 days is adequate notice of an effective rate increase of \$20 per month in the household's broadband plan. For a family in extreme poverty, \$20 is a significant sum.

Re para. 125, CETF interprets this language as requiring the FCC to ensure that an EBB subscriber who is eligible for ACP not be abruptly cut off but allowed to continue its affordable service offering under the ACP. This Legislative intent suggests that a longer transition period and multiple notices to the households should be undertaken to ensure the household does not lose its service suddenly.

Re para. 126, CETF urges USAC and the states to promptly undertake developing a way for the WIC eligibility databases to be integrated into the National Verifier's databases. Until it is achieved, another way to establish eligibility should be established such as a simple letter sent by WIC to the eligible person which may be used to establish ACP eligibility with a provider in the short term. Similarly, USAC should work with the 3 non NLAD states to quickly work out a way for their Lifeline databases to be integrated into the National Verifier's database on a regular basis.

Re para. 127, CETF declines to comment on these issues of federal data exchange.

Sunsetting of the Affordable Connectivity Program

Re para 128, CETF supports the delegation to the Bureau by the FCC of an orderly wind down of the ACP program. Providers should receive at least four months' notice of the wind down of the program and subscribers should be provided 60 days' notice. CETF supports the FCC / USAC using a forecasting projection to provide adequate notice of the end of the ACP program similar to the EBB program end forecast.

Audits and Program Integrity Reviews

Re para. 129-130, CETF supports the Notice provisions on keeping the audit and program integrity reviews the same as for the EBB program. CETF strongly urges the Commission to collect data on enrollments, de-enrollments, churn, and consumer complaints related to the ACP in order to quickly

identify problem providers and investigate quickly. CETF supports swift and strong enforcement for any bad actors who try to take advantage of the ACP program and its intended beneficiaries.

Enforcement

Re para. 131, CETF supports the Notice's Enforcement proposal, including use of forfeiture penalties. CETF cannot comment on the "suspension and debarment" because it is not defined.

Re para. 132, CETF supports the safe harbor provision in the Consolidated Appropriations Act to be used for the ACP.

Administration of the Affordable Connectivity Fund

Re para. 133, CETF supports the use of USAC to administrate the ACP program, given its experience with the Lifeline and EBB programs. CETF expects that USAC capabilities and staffing will be ramped up quickly in order to handle this new program. USAC must be able to keep up on its normal Universal Service Program duties.

Re para. 134, CETF supports the use of an annual officer certification under penalty of perjury as to the ACP program and officer certification it has policies and procedures in place to ensure compliance with ACP rules.

Re para. 135, CETF declines to comment on the administrative cap issue.

Re para. 136, CETF supports application of the red-light rule to the ACP program in light of the expected length of the program.

Re para. 137, CETF declines to comment on the Payment Integrity Information Act issue.

Re para. 138, CETF declines to comment on the Application of Part 54 Regulations.

Sincerely yours,

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